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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,389	01/02/2004	Kenton T. Oakes	90140	9143

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EXAMINER

NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/749,389

**Applicant(s)**

OAKES, KENTON T.

**Examiner**

Thu Khanh T. Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zambrano, Jr (4,028,041) in view of Edwards et al (5,783,123) and Ban et al (4,645,991).

Zambrano, Jr. disclose a base (Fig. 2, 12), a shell (84) carried on the base, a pottery wheel (14) rotatable around a vertical axis (26), including wheel-head (18) having an upwardly facing flat surface (Fig. 1, top surface of the wheel 14), a leg (Fig. 2) mounted on the bottom of the base (12), a drive motor (64) couple to the wheel head (18).

Zambrano, Jr fails to disclose that the feet are rubber or elastic.

Edwards et al disclose a pottery wheel, comprising a turntable (TT) rotatably supported on a base (122), which is covered by a rubber gasket (G) on the bottom surface in order to prevent the wheel from slipping on a support surface (col. 5, lines 9-11).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Zambrano, Jr. by providing a rubber gasket covering the lower surface of the supporting member as taught by Edwards, in order to prevent the pottery wheel from slipping on a support surface.

Zambrano, Jr. fails to disclose a speed control circuitry.

Ban et al disclose a control system for controlling the rotational speed of a motor (76), which drives a turntable at a constant speed and a speed control circuitry (Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Zambrano, Jr. by providing a speed control circuitry as taught by Ban et al in order to automatically control the speed of the motor and the turntable.

In regard to claim 2, Zambrano, Jr. discloses a bearing (34) and a bearing holder, which reads on the washer (36).

In regard to claim 3, Zambrano discloses a drive shaft (26) connectable to the wheel (18, col. 2, lines 41-45).

In regard to claims 4-5, Zambrano, Jr. fails to disclose a reversible motor. Edwards et al ('123) disclose that the motor (127) is reversible (col. 5, lines 54-61). It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Zambrano, Jr. by providing a reversible motor as taught by Edwards et al because the revisable motor would be more flexible and enable the turntable to rotate in both clockwise and counterclockwise directions.

In regard to claim 6, Zambrano, Jr. discloses that any conventional motor suitable for driving the turntable can be used (col. 3, lines 32-35); therefore, it would have been obvious to one of ordinary skill in the art to select a motor with proper horsepower and to operate the motor at an appropriate rotational speed.

In regard to claims 7, Zambrano discloses a motor enclosure (64).

In regard to claims 1, 8, 16, 17, it is inherent that the motor would be rearranged the in a proper alignment and position relative to the turntable. It has been held that by merely shifting

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the position of the parts without changing the operation of the mechanism will not render the claims patentable and the placement of the mechanism is an obvious matter of design choice. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950); In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

In regard to claims 9-13, Ban et al disclose a breaker (50) having a plurality of switches (50a-f) connected to the motor for controlling the rotational speed. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Zambrano, Jr. by providing a controlling circuit connected to a switch and a breaker as taught by Ban et al in order to control the rotational speed of the motor.

In regard to claims 14-15, Zambrano, Jr. discloses a control knob (66) connected to the motor and reads on the control jack of the current invention.

In regard to claims 16-17, 19 and 24 Zambrano, Jr. further discloses a pocket (100) for storing accessories (col. 4, lines 49-52) and a trough or splash pan (20).

In regard to claim 18, Zambrano, Jr. discloses that the housing, or the exoskeleton (12) is made of polystyrene which is an injection molded plastic (col. 2, lines 36-38)

In regard to claims 20-23, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Zambrano, Jr. by relocate the pocket holder (100) to different locations and to provide more than one pocket holders within the housing in order to properly contain materials in the housing. It has been held that by merely shifting the position of the parts without changing the operation of the mechanism will not render the claims patentable and the placement of the mechanism is an obvious matter of design choice. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950); In re Kuhle, 526 F.2d 553, 188 USPQ

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7 (CCPA 1975). The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

***Response to Arguments***

3. Applicant's arguments filed August 8, 2005 have been fully considered but they are not persuasive.

4. The applicant argued that the prior art fails to disclose that the motor is “disposed, at least in part, above a plane of said upwardly facing flat surface.” However, the court has long held that the location of a device does not make the apparatus patentable if it does not change the operation of the device. It has been held that by merely shifting the position of the parts without changing the operation of the mechanism will not render the claims patentable and the placement of the mechanism is an obvious matter of design choice. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950); *In re Kuhle*, 526 F.2d 553, 188 USPQ 7 (CCPA 1975). In this case, it does not matter where the motor is located, it’s still used to drive the pottery wheel.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN

DUANE SMITH  
PRIMARY EXAMINER

*D*  
*10-31-05*